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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

United States of America,

Plaintiff,

vs.

Ruben Sebastian Felix-Escamilla,

Defendant.

CR-22-0980-08-TUC-RM-(LCK)

PLEA AGREEMENT

The United States of America and the defendant agree to the following disposition of this matter:

PLEA

1. The defendant agrees to plead guilty to count one of the Information which charges the defendant with a felony violation of 21 U.S.C. §§ 846 and 841(a)(1), (b)(1)(B)(vi), and (viii), conspiracy to distribute 40 grams or more of a mixture or substance that contained a detectable amount of fentanyl, and 5 grams or more of methamphetamine or 50 grams or more of a mixture or substance containing a detectable amount of methamphetamine. The Indictment as to the defendant will be dismissed at sentencing.

Elements of the Offense

2. The elements of the offense are as follows:

1           a.     The defendant agreed with at least one other person to commit the  
2 crime of distribution of 40 grams or more of a mixture or substance that contained a  
3 detectable amount of fentanyl, and 5 grams or more of methamphetamine or 50 grams or  
4 more of a mixture or substance containing a detectable amount of methamphetamine as  
5 charged in count one of the Information;

6           b.     The defendant became a member of the conspiracy knowing that its  
7 objects were the distribution of fentanyl and methamphetamine, in violation of 21 U.S.C.  
8 §§ 846 and 841(a)(1), (b)(1)(B)(vi), and (viii) and intending to accomplish said objects.

9           c.     As a sentencing factor, the government would be required to prove as  
10 to the distribution of fentanyl that the conspiracy involved 40 grams or more of a mixture  
11 or substance that contained a detectable amount of fentanyl and as to methamphetamine  
12 that the conspiracy involved 5 grams of actual methamphetamine or 50 grams or more of  
13 a mixture or substance that contained a detectable amount of methamphetamine.

14                               Maximum Penalties

15           3.     The defendant understands that the maximum penalties for the offense to  
16 which he/she is pleading are a fine of \$5,000,000.00, a term of 5 to 40 years of  
17 imprisonment, or both, and a term of between 4 years and lifetime supervised release.

18           4.     The defendant agrees to pay a fine unless the defendant establishes the  
19 applicability of the exceptions contained in § 5E1.2(e) of the Sentencing Guidelines.

20           5.     Pursuant to 18 U.S.C. § 3013, the defendant shall pay a special assessment  
21 of \$100.00 per felony count. The special assessment is due and payable at the time the  
22 defendant enters the plea of guilty, but in no event shall be paid later than the time of  
23 sentencing unless the defendant is indigent. If the defendant is indigent, the special  
24 assessment will be collected according to the provisions of Chapters 227 and 229 of Title  
25 18, United States Code.

26                               Immigration Consequences

27           6.     The defendant recognizes that pleading guilty may have consequences with  
28 respect to his immigration status if defendant is not a citizen of the United States. Under



1 federal law, a broad range of crimes are removable offenses, including the offense to which  
 2 defendant is pleading guilty. Removal and other immigration consequences are the subject  
 3 of a separate proceeding, however, and defendant understands that no one, including  
 4 defendant's attorney or the district court, can predict to a certainty the effect of defendant's  
 5 conviction on defendant's immigration status. Defendant nevertheless affirms that he/she  
 6 wants to plead guilty regardless of any immigration consequences that this plea may entail,  
 7 even if the consequence is defendant's automatic removal from the United States.

### 8 9 STIPULATIONS, TERMS AND AGREEMENTS

#### 10 Agreements Regarding Sentencing

11 7. Guideline Calculations: Although the parties understand that the Guidelines  
 12 are only advisory and just one of the factors the Court will consider under 18 U.S.C.  
 13 § 3553(a) in imposing a sentence, pursuant to Rule 11(c)(1)(C), Fed. R. Crim. P., the parties  
 14 stipulate and agree that the following guideline calculations are appropriate for the charge  
 15 for which the defendant is pleading guilty should the Court find that the defendant was an  
 16 average participant in the offense:

17 Base Offense Level	2D1.1(c)(4)	32
18 (6188.5 Kg of converted drug)		
19 Importation of Methamphetamine	2D1.1(b)(5)	+2
20 Safety Valve*	2D1.1(b)(18)	-2/0
21	[18 U.S.C. §3553(f)]	
22 Acceptance of Responsibility	3E1.1(a) & (b)	-3
23 Early Disposition/Government Savings	5K3.1/5K2.0	<u>-4</u>
24 Total Adjusted Offense Level:		25/27

25 \*Safety Valve: Pursuant to Fed. R. Crim. P. 11(c)(1)(B) and (C), the United States  
 26 and the defendant stipulate that the defendant shall receive a two-level reduction in the  
 27 guideline offense level if the defendant meets all five criteria required for the defendant's  
 28 eligibility for the "safety valve" reduction pursuant to the United States Sentencing

Guidelines §§ 2D1.1(b)(18) and 5C1.2(a). However, if the defendant is ineligible under the United States Sentencing Guidelines but qualifies for “safety valve” under the expanded Safety Valve Relief under the First Step Act pursuant to 18 U.S.C. § 3553(f), then the United States will recommend that the defendant receive a two-level downward variance pursuant to 18 U.S.C. § 3553(a). In exchange for the recommendation, the defendant agrees to not seek a further reduced sentence pursuant to 18 U.S.C. § 3582(c) if the United States Sentencing Commission amends Section 5C1.2 to reflect the safety valve provisions under the First Step Act and makes that amendment retroactive. If the defendant is not eligible for “safety valve” relief under the guidelines or under the First Step Act, then the parties agree that this particular provision will be void and all other provisions of this plea agreement shall remain in full force and effect.

9. Sentencing Agreement if Defendant is Safety Valve Eligible: Pursuant to U.S.S.G., § 5K3.1, and Fed. R. Crim. P., Rule 11(c)(1)(C), the government and the defendant stipulate and agree that the following are the applicable guideline ranges for the offense, if the defendant is eligible for “safety valve” as set forth above in paragraph 8:

57 to 71 months imprisonment if defendant’s Criminal History Category is I;

63 to 78 months imprisonment if defendant’s Criminal History Category is II;

70 to 87 months imprisonment if defendant’s Criminal History Category is III;

84 to 105 months imprisonment if defendant’s Criminal History Category is IV;

100 to 125 months imprisonment if defendant’s Criminal History Category is V;

110 to 137 months imprisonment if defendant’s Criminal History Category is VI.

a. The defendant may withdraw from the plea agreement if he/she receives a sentence in excess of the stipulated ranges listed above.

b. The defendant may not move for any adjustments in Chapters Two, Three or Four of the Sentencing Guidelines or any “departures” from the Sentencing Guidelines.

c. The defendant may argue for a variance under 18 U.S.C. § 3553(a) in support of a sentence request below the stipulated range in this agreement, and the



1 government may oppose the requested variance. The government, however, will not  
 2 withdraw from the agreement if the defendant argues for, and the Court grants, a variance  
 3 below the stipulated range in this agreement.

4 10. Sentencing Agreement if Defendant is Not Safety Valve Eligible: Pursuant  
 5 to U.S.S.G., § 5K3.1, and Fed. R. Crim. P., Rule 11(c)(1)(C), the government and the  
 6 defendant stipulate and agree that the following are the applicable guideline ranges for the  
 7 offense, if the defendant is not eligible for sentencing under the provisions of paragraph 9  
 8 because the defendant has not met the eligibility requirements of “safety valve” (as  
 9 described above in paragraph 8):

10 70 to 87 months imprisonment if defendant’s Criminal History Category is I;  
 11 78 to 97 months imprisonment if defendant’s Criminal History Category is II;  
 12 87 to 108 months imprisonment if defendant’s Criminal History Category is III;  
 13 100 to 125 months imprisonment if defendant’s Criminal History Category is IV;  
 14 120 to 150 months imprisonment if defendant’s Criminal History Category is V;  
 15 130 to 162 months imprisonment if defendant’s Criminal History Category is VI.

16 a. The defendant may withdraw from the plea agreement if he/she  
 17 receives a sentence in excess of the stipulated ranges listed above. The government may  
 18 withdraw from the plea agreement if the Court sentences the defendant below the  
 19 mandatory minimum term of imprisonment for this offense.

20 b. The defendant may not move for any adjustments in Chapters Two,  
 21 Three or Four of the Sentencing Guidelines or any “departures” from the Sentencing  
 22 Guidelines.

23 c. The defendant may argue for a variance under 18 U.S.C. § 3553(a) in  
 24 support of a sentence request below the stipulated range in this agreement, and the  
 25 government may oppose the requested variance. The government, however, will not  
 26 withdraw from the agreement if the defendant argues for, and the Court grants, a variance  
 27 below the stipulated range in this agreement provided that the sentence is not below the  
 28 mandatory minimum term of imprisonment.

1  
2 11. The defendant understands that if the defendant violates any of the conditions  
3 of the defendant's supervised release, the supervised release may be revoked. Upon such  
4 revocation, notwithstanding any other provision of this agreement, the defendant may be  
5 required to serve a term of imprisonment or the defendant's sentence may otherwise be  
6 altered.

7 12. The defendant and the government agree that this agreement does not in any  
8 manner restrict the actions of the government in any other district or bind any other United  
9 States Attorney's Office.

10 13. The defendant understands and agrees to cooperate fully with the United  
11 States Probation Office in providing (a) all criminal history information, i.e., all criminal  
12 convictions as defined under the Sentencing Guidelines; (b) all financial information, i.e.,  
13 present financial assets or liabilities that relate to the ability of the defendant to pay a fine  
14 or restitution; (c) all history of drug abuse which would warrant a treatment condition as  
15 part of sentencing; and (d) all history of mental illness or conditions which would warrant  
16 a treatment condition as part of sentencing.

17 14. If the Court, after reviewing this plea agreement, concludes any provision is  
18 inappropriate, it may reject the plea agreement pursuant to Fed. R. Crim. P. 11(c)(5), giving  
19 the defendant, in accordance with Fed. R. Crim. P. 11(d)(2)(A), an opportunity to withdraw  
20 his guilty plea.

#### 21 Forfeiture

22 15. Nothing in this plea agreement shall be construed to protect the defendant  
23 from civil forfeiture proceedings or prohibit the United States from proceeding with and/or  
24 initiating an action for civil forfeiture. Further, this agreement does not preclude the United  
25 States from instituting any civil proceedings as may be appropriate now or in the future.

#### 26 Waiver of Defenses and Appeal Rights

27 16. Provided the defendant receives a sentence in accordance with this plea  
28 agreement, the defendant waives (1) any and all motions, defenses, probable cause



1 determinations, and objections that the defendant could assert to the indictment or  
2 information; and (2) any right to file an appeal, any collateral attack, and any other writ or  
3 motion that challenges the conviction, an order of restitution or forfeiture, the entry of  
4 judgment against the defendant, or any aspect of the defendant's sentencing-including the  
5 manner in which the sentence is determined, the determination whether defendant qualifies  
6 for "safety valve" (U.S.S.G. § 5C1.2 and 18 U.S.C. § 3553(f)), and any sentencing  
7 guideline determinations. The sentence is in accordance with this agreement if the sentence  
8 imposed does not exceed 137 months imprisonment if safety valve eligible or 162 months  
9 if not safety valve eligible. The defendant further waives: (1) any right to appeal the Court's  
10 entry of judgment against defendant; (2) any right to appeal the imposition of sentence  
11 upon defendant under Title 18, United States Code, Section 3742 (sentence appeals); (3)  
12 any right to appeal the district court's refusal to grant a requested variance; (4) any right to  
13 collaterally attack defendant's conviction and sentence under Title 28, United States Code,  
14 Section 2255, or any other collateral attack; and (5) any right to file a motion for  
15 modification of sentence, including under Title 18, United States Code, Section 3582(c)  
16 (except for the right to file a compassionate release motion under 18 U.S.C. §  
17 3582(c)(1)(A) and to appeal the denial of such a motion). The defendant acknowledges  
18 that this waiver shall result in the dismissal of any appeal or collateral attack the defendant  
19 might file challenging his/her conviction or sentence in this case. If the defendant files a  
20 notice of appeal or a habeas petition, notwithstanding this agreement, defendant agrees that  
21 this case shall, upon motion of the government, be remanded to the district court to  
22 determine whether defendant is in breach of this agreement and, if so, to permit the  
23 government to withdraw from the plea agreement. This waiver shall not be construed to  
24 bar an otherwise-preserved claim of ineffective assistance of counsel or of "prosecutorial  
25 misconduct" (as that term is defined by Section II.B of Ariz. Ethics Op. 15-01 (2015)).

#### 26 Reinstitution of Prosecution

27 17. Nothing in this agreement shall be construed to protect the defendant in any  
28 way from prosecution for perjury, false declaration or false statement, or any other offense

1 committed by the defendant after the date of this agreement. In addition, if the defendant  
2 commits any criminal offense between the date of this agreement and the date of  
3 sentencing, the government will have the right to withdraw from this agreement. Any  
4 information, statements, documents and evidence which the defendant provides to the  
5 United States pursuant to this agreement may be used against the defendant in all such  
6 proceedings.

7 18. If the defendant's guilty plea is rejected, withdrawn, vacated, or reversed by  
8 any court in a later proceeding, the government will be free to prosecute the defendant for  
9 all charges as to which it has knowledge, and any charges that were dismissed because of  
10 this plea agreement will be automatically reinstated. In such event, the defendant waives  
11 any objections, motions, or defenses based upon the Speedy Trial Act or the Sixth  
12 Amendment to the Constitution as to the delay occasioned by the later proceedings.  
13 Defendant agrees that the stipulated sentencing ranges set forth under "Agreements  
14 Regarding Sentence" will not be offered if prosecution is re-instituted.

15 Plea Addendum

16 19. This written plea agreement, and any written addenda filed as attachments to  
17 this plea agreement, contain all the terms and conditions of the plea. Any additional  
18 agreements, if any such agreements exist, shall be recorded in a separate document and  
19 may be filed with the Court under seal. Accordingly, additional agreements, if any, may  
20 not be in the public record.

21  
22 WAIVER OF DEFENDANT'S RIGHTS AND FACTUAL BASIS

23 Waiver of Rights

24 I have read each of the provisions of the entire plea agreement with the assistance  
25 of counsel and understand its provisions. I have discussed the case and my constitutional  
26 and other rights with my attorney. I understand that by entering my plea of guilty I will be  
27 giving up my right to plead not guilty; to trial by jury; to confront, cross-examine, and  
28 compel the attendance of witnesses; to present evidence in my defense; to remain silent



1 and refuse to be a witness against myself by asserting my privilege against self-  
2 incrimination; all with the assistance of counsel; to be presumed innocent until proven  
3 guilty beyond a reasonable doubt; and to appeal.

4 I agree to enter my guilty plea as indicated above on the terms and conditions set  
5 forth in this agreement.

6 I have been advised by my attorney of the nature of the charge to which I am entering  
7 my guilty plea. I have been advised by my attorney of the nature and range of the possible  
8 sentence, and that I will not be able to withdraw my guilty plea if I am dissatisfied with the  
9 sentence the court imposes.

10 My guilty plea is not the result of force, threats, assurances or promises other than  
11 the promises contained in this agreement. I agree to the provisions of this agreement as a  
12 voluntary act on my part, rather than at the direction of or because of the recommendation  
13 of any other person, and I agree to be bound according to its provisions. I agree that any  
14 Sentencing Guidelines range referred to herein or discussed with my attorney is not binding  
15 on the Court and is merely an estimate.

16 I agree that this written plea agreement contains all the terms and conditions of my  
17 plea and that promises made by anyone (including my attorney) that are not contained  
18 within this written plea agreement are without force and effect and are null and void.

19 I am satisfied that my defense attorney has represented me in a competent manner.

20 I am not now on or under the influence of any drug, medication, liquor, or other  
21 intoxicant or depressant, which would impair my ability to fully understand the terms and  
22 conditions of this plea agreement.

23 Factual Basis and Relevant Conduct

24 I further agree that the following facts accurately describe my conduct in connection  
25 with the offense to which I am pleading guilty and that if this matter were to proceed to  
26 trial the government could prove the elements of the offense beyond a reasonable doubt:

27 From a time unknown to on or about January 4, 2021, in the District of  
28 Arizona, RUBEN SEBASTIAN FELIX-ESCAMILLA conspired and agreed

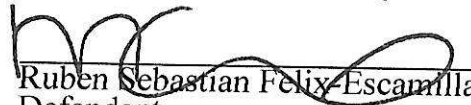
1 with others to accomplish the object of the conspiracy namely the distribution  
 2 of methamphetamine and fentanyl. As part of the conspiracy, FELIX-  
 3 ESCAMILLA would receive methamphetamine and fentanyl from a source  
 of supply and distribute it to others.

4 In furtherance of the conspiracy, on or about October 21, 2020, in Tucson,  
 5 Arizona, FELIX-ESCAMILLA distributed approximately 500 counterfeit  
 6 pills that he knew contained fentanyl and approximately 1 pound of  
 methamphetamine to another person.

7 On January 4, 2021, FELIX-ESCAMILLA was found by law enforcement to  
 8 be in possession of approximately 2.8 kilograms of methamphetamine and  
 9 155 grams of a mixture or substance that contained a detectable amount of  
 fentanyl that he intended to deliver to another person.

10 FELIX-ESCAMILLA accepts the fact the government could show that the  
 11 total amount of methamphetamine he intended to distribute was  
 12 approximately 2.84 kilograms and the total amount of a mixture or substance  
 13 containing a detectable amount of fentanyl was approximately 205 grams.

14 4/4/2023  
 Date

  
 Ruben Sebastian Felix-Escamilla FOR  
 Defendant

#### 16 DEFENSE ATTORNEY'S APPROVAL


17 I have discussed this case and the plea agreement with my client in detail and have  
 18 advised the defendant of all matters within the scope of Rule 11, Fed. R. Crim. P., the  
 19 constitutional and other rights of an accused, the factual basis for and the nature of the  
 20 offense to which the guilty plea will be entered, possible defenses, and the consequences  
 21 of the guilty plea, including the defendant's waiver the right to appeal. No assurances,  
 22 promises, or representations have been given to me or to the defendant by the government  
 23 or by any of its representatives which are not contained in this written agreement. I concur  
 24 in the entry of the plea as indicated above and on the terms and conditions set forth in this  
 25 agreement as in the best interests of my client. I agree to make a bona fide effort to ensure  
 26

27 //



1 that the guilty plea is entered in accordance with all the requirements of Rule 11, Fed. R.  
2 Crim. P.

3 4/4/2023  
4 Date

  
F. Michael Carrillo  
Attorney for Defendant

5 GOVERNMENT'S APPROVAL

6 I have reviewed this matter and the plea agreement. I agree on behalf of the United  
7 States that the terms and conditions set forth are appropriate and are in the best interests of  
8 justice.

9  
10 DAVID PETERMANN  
11 Date

GARY M. RESTAINO  
United States Attorney  
District of Arizona  
Digitally signed by DAVID PETERMANN  
Date: 2023.01.30 14:38:12 -07'00'  
David P. Petermann  
Assistant U.S. Attorney